

2005 DRAFTING REQUEST

Bill

Received: **12/29/2004**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**

By/Representing: **Nick Zavos**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Bus. Assn. - LLCs**

Extra Copies: **CTS**

Submit via email: **YES**

Requester's email: **nicholas.zavos@legis.state.wi.us**

Carbon copy (CC:) to: **carrie.templeton@dfi.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Reinstatement of limited liability companies

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| /? | | | | _____ | | | State |
| /1 | mkunkel 08/02/2005 | chanaman 08/03/2005 | rschluet 08/03/2005 | _____ | lnorthro 08/03/2005 | | State |
| /2 | mkunkel 11/14/2005 | jdye 11/14/2005 | jfrantze 11/14/2005 | _____ | lnorthro 11/14/2005 | sbasford 12/23/2005 | |

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Carbon copy (CC:) to: **Kathryn.Carlson@dfi.state.wi.us**

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1/2 11/14 jld
11/14 <END>

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|--------------|----------------|-----------------|---|----------------|------------------|-----------------|-----------------|
| /? | mkunkel | |  | | | | |

FE Sent For:

<END>



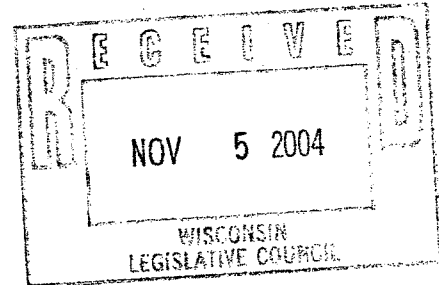
State of Wisconsin
Department of Financial Institutions

Jim Doyle, Governor

Lorrie Keating Heinemann, Secretary

November 4, 2004

Mr. Terry C. Anderson, Director
Joint Legislative Council
One East Main Street, Suite 401
P.O. Box 2536
Madison, WI 53701



Dear Mr. Anderson:

On behalf of the Wisconsin Department of Financial Institutions and the Wisconsin Office of Credit Unions, I am submitting the following recommendations for consideration by the Law Revision Committee during the 2005-2006 session. These submissions are in addition to the previous remedial legislation requests submitted by DFI that are summarized at the end of this memo. There is no fiscal impact to any of the proposed revisions.

Proposed Revision #1 - Credit Union Services

Remove "limited service offices outside the state" in Chapter 186.113(1m). Credit unions are now permitted to maintain out-of-state branches.

Current statute 186.113(1m) limits credit unions to limited service offices that were established before November 6, 2003. No such offices exist at this time. The description of branch offices in Chapter 186.113(1) was expanded with 2003 Act 63 to include "branch offices inside or outside of this state."

Proposed Revision #2 - Chapter 138 Changes

1. Amend s.138.09(4) to read that a license can be revoked for any of the listed grounds by changing the word "and" at the end of 138.09(4)(a)2. to "or."

The necessity of this change is that revocations are based upon separate grounds for each entity. It is impracticable to have an all-inclusive revocation list. The consequence of this is that if a licensed entity pays its license fee, their license can never be revoked for other unethical behavior because paying the fee is one of the listed grounds in s. 138.09(4).

2. Add authority to bill for loan company examinations to s. 138.09(4)(a).

The authority to charge for an examination was eliminated by mistake when 1997 Act 27 passed. The goal was to eliminate the reference to the consumer credit review board only, which was in s. 138.09(4a) but that is also where the exam authority was as well.

Office of the Secretary

Mail: PO Box 8861 Madison, WI 53708-8861
Voice: (608) 264-7800

Fax: (608) 261-4DFI

Courier: 345 W. Washington Ave. 5th Floor Madison, WI 53703
TTY: (608) 266-8818

Internet: www.wdfi.org

3. Amend s. 138.09 to give the department authority to issue special or general orders against loan companies and insurance premium finance companies.

The division of banking has the authority to issue special or general orders against all entities it licenses except loan companies and insurance premium finance companies. Both loan companies and insurance premium finance companies are licensed with DFI under ss. 138.09 and 138.12, respectively, but currently the division does not have the authority to enforce the provisions for these licensees under 138.09.

Proposed Revision #3 – Chapter 220 Authority

Include s.138.12 and s.224 subchapter III under chapter 220. Chapter 220 has several provisions that list all the banking division entities under the authority of the banking administrator. Insurance premium finance companies and mortgage banking have yet to be included.

Proposed Revision #4 - Chapter 183 Changes Relating to Reinstatement for LLCs

11/22
Revise 183.09025(4) to remove the 30-day limit provision in 183.09025(4)(a). The statute should mirror 180.1422 regarding reinstatement of business corporations which reads, "(1) A corporation that is administratively dissolved may apply to the department for reinstatement."

We are requesting the change so that there is consistency in the law governing reinstatement whether it is a corporation or limited liability company. The 30-day time frame puts on unfair and unnecessary burden on LLC owners who wish to reinstate their business. Additionally it may create unnecessary administrative burdens on the agency in administering remedies.

Proposed Revision #5 – Chapter 218 Error

When 218.01(6m) of the statute was renumbered to ss. 218.0143(1) and (2) by 99 Act 31, the meaning was changed significantly. This was not the intent, and the prior meaning should be restored.

Specifically, prior to the change, s. 218.01(6m) indicated that whenever insurance coverage is included on a retail installment contract, the policy shall include public liability insurance ("PLI") coverage or the seller shall notify the buyer that the motor vehicle is not covered by PLI.

After the change, s. 218.0143(1) indicates that whenever insurance coverage is included on a retail installment contract, the policy issued shall include PLI coverage, and s. 218.0143(2) indicates that that whenever insurance coverage is not included on a retail installment contract, the seller needs to notify the buyer that the vehicle is not covered by PLI. These provisions are contradictory and misleading.

Previously Proposed Revisions

Changes that have been submitted in previous sessions and are being resubmitted for consideration at this time include:

- 1) Repeal s. 186.35, eliminating the Wisconsin Credit Union Savings Insurance Corporation. The corporation was dissolved at a special meeting of the Board of Trustees and Members on May 8, 1999. 2001 SB 450
- 2) Add Mortgage Banking and Non-depository Small Business Administration (SBA) Lenders to s. 220.02. 2001 SB 807
- 3) Trust Service Offices – Eliminate the language “in this state” in ss. 221.0316 (4) and 223.07 (1). When changes were made to these sections in the 1995-96 session, an oversight occurred by not adopting language permitting Wisconsin financial institutions to establish Trust Service Offices at a bank or branch location outside of Wisconsin. 2001 SB 807
Also replace “the state or national bank” with “depository institutions, as defined in s. 221.0901 (2)(i).”
- 4) Sellers of Checks – Eliminate the “telegraph company” exemption under s. 217.02 (9). It is our understanding that this type of entity no longer exists. 2001 SB 807
- 5) Collection Agencies – Eliminate the term “professional men’s associations” from s. 218.04 (1)(a). This is an antiquated term that no longer needs to be specifically exempted from the “collection agency” definition. 2001 SB 807
- 6) Free Credit Balances – Amend s. 224.02 to eliminate the antiquated language that specifies the criteria with which an “agent for investment” must comply in order to pay interest on free credit balances. This will provide a clear exemption from the statutory definition of “the business of banking” and allow an “agent for investment” to pay interest on these balances to their clients. 2001 SB 807
- 7) Revocation and Suspension of Securities Licenses – amend s. 551.63 (2) to exclude the actions required to be taken by the Division of Securities against licensees for delinquency in paying either child support or state taxes, from the general standard required for Division actions. 2001 SB 807
- 8) Franchise Registration Statements – Amend s. 553.26 (4m) to clarify that once a person has registered a franchise, the person is not required to file any additional information except amendments that reflect material changes to the registration statement.

Amend s. 553.31 (2) to clarify that any amendment filed with the Division of Securities after the effective date of a registration for the sale of a franchise is effective upon receipt of the amendment.

2001
SB 807

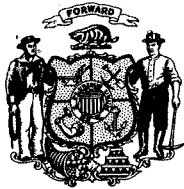
- 9) Pawnbrokers – Create a blanket exemption in s. 138.10 for pawnbrokers licensed by DFI and remove the reference to rule-making authority from s. 138.10 and place it, more properly, within s. 138.09. 2001 SB 807
- 10) Service Corporations – Amend s. 180.1911 to allow minority ownership by non-CPAs in CPA firms. This omission was an oversight in 2001 Assembly Bill 345. 2003 LRB-2416/2

Sincerely,



Kathryn Carlson
Executive Assistant

cc: Secretary Lorrie Keating Heinemann



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1422/1

MDK:.....

D-NOTE

By Friday
8/5

2005 BILL

- 1 AN ACT ^{reger cat} relating to: administratively dissolved limited liability companies
2 (suggested as remedial legislation by the Department of Financial
3 Institutions).

Analysis by the Legislative Reference Bureau

Under current law, a limited liability company (LLC) organized under the laws of this state must file an annual report with the Department of Financial Institutions (DFI). If an LLC does not file the report, DFI may administratively dissolve the LLC. An LLC that has been administratively dissolved may file for reinstatement as an LLC. The deadline for such a filing is within 30 days after the administrative dissolution. This bill eliminates this deadline.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1422/1dn

MDK:.....

data

JK

As drafted, the bill applies to LLCs that DFI administratively dissolves on or after the effective date of the bill. As a result, if DFI administratively dissolved an LLC before the effective date of the bill, the 30-day deadline under current law would apply to that LLC. Is that okay?

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1422/1dn
MDK:ch:rs

August 3, 2005

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Phone: (608) 266-0131
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State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1422/1
MDK:ch:rs

2005 BILL

1 **AN ACT to amend** 183.09025 (4) (a) (intro.) of the statutes; **relating to:**
2 administratively dissolved limited liability companies (suggested as remedial
3 legislation by the Department of Financial Institutions).

Analysis by the Legislative Reference Bureau

Under current law, a limited liability company (LLC) organized under the laws of this state must file an annual report with the Department of Financial Institutions (DFI). If an LLC does not file the report, DFI may administratively dissolve the LLC. An LLC that has been administratively dissolved may file for reinstatement as an LLC. The deadline for such a filing is within 30 days after the administrative dissolution. This bill eliminates this deadline.

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BILL

makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 183.09025 (4) (a) (intro.) of the statutes is amended to read:

183.09025 (4) (a) (intro.) A limited liability company that is administratively dissolved under sub. (2) (c) may apply to the department for reinstatement ~~within 30 days after the date on which the limited liability company is dissolved.~~ The application shall include all of the following:

SECTION 2. Initial applicability.

(1) This act first applies to limited liability companies that the department of financial institutions administratively dissolves on the effective date of this subsection.

(END)

Insert A

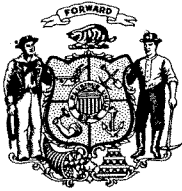
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MDK:ch:rs

August 3, 2005

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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1422/1

MDK:ch:rs

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SOON

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(END)

INSERT 2-5

INSERT 2-5

~~NOTE TO LRB 1422/1 (INSERT A)~~

NOTE: According to the department of financial institutions, the current 30-day time limit for limited liability companies to apply for reinstatement after being administratively dissolved is an unnecessary burden on LLC owners who wish to reinstate their business. Further, the department indicates that it may create unnecessary administrative burdens on the agency. This amendment of the LLC reinstatement provision is consistent with the corresponding reinstatement provision that applies to business corporations (see s. 180.1422, stats.).

END of INSERT 2-5

Barman, Mike

From: Northrop, Lori
Sent: Wednesday, November 16, 2005 9:46 AM
To: Lynn Emery; Mike Barman; Sarah Basford
Subject: FW: Draft review: LRB 05-1422/2 Topic: Reinstatement of limited liability companies

just for your info.....in case a draft comes thru with Kathryn on it.....

From: Templeton, Carrie
Sent: Wednesday, November 16, 2005 9:42 AM
To: Northrop, Lori
Subject: RE: Draft review: LRB 05-1422/2 Topic: Reinstatement of limited liability companies

Thanks, Lori. FYI—Kathryn Carlson left DFI in late August and I am now the EA, so if you could try to send these to me instead of her in the future, I would appreciate it. I expect our IT dept to stop forwarding her emails to me by Thanksgiving. Thanks!
Carrie

*Carrie Templeton
Department of Financial Institutions
(608) 264-7800
carrie.templeton@dfi.state.wi.us*

-----Original Message-----

From: Northrop, Lori [mailto:Lori.Northrop@legis.state.wi.us]
Sent: Monday, November 14, 2005 2:26 PM
To: Kathryn.Carlson@dfi.state.wi.us
Subject: Draft review: LRB 05-1422/2 Topic: Reinstatement of limited liability companies

Draft Requester: Legislative Council - LRC

Following is the PDF version of draft LRB 05-1422/2.

Lisa
Roys
??

Basford, Sarah

From: Rose, Laura
Sent: Friday, December 23, 2005 10:39 AM
To: LRB.Legal
Cc: Veum, Rachel
Subject: Law Revision Committee bill drafts

Hi there,

Could you please have the following bill drafts jacketed for the Senate:

LRB 1025/1
LRB 1155/1
LRB 1419/2
LRB 1422/2
LRB 1423/2

Thanks very much.

Laura Rose

Laura Rose
Deputy Director, WI Legislative Council
One East Main St., Suite 401
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Madison, WI 53701-2536
tel: 608.266.9791
fax: 608.266.3830
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